

1 SARA A. CLARK (State Bar No. 273600)  
SHUTE, MIHALY & WEINBERGER LLP  
2 396 Hayes Street  
San Francisco, California 94102  
3 Telephone: (415) 552-7272  
Facsimile: (415) 552-5816  
4 Clark@smwlaw.com

5 Attorney for Petitioner Stephen Bennett

6  
7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF VENTURA**  
10

11 STEPHEN BENNETT,

12 Petitioner,

13 v.

14 CITY OF SAN BUENAVENTURA; CITY  
CLERK OF THE CITY OF SAN  
15 BUENAVENTURA; and DOES 1  
THROUGH 20,

16 Respondents.  
17

Case No.

**VERIFIED PETITION FOR WRIT OF  
MANDATE**

Gov. Code § 6250 et seq. (California  
Public Records Act); Cal. Const. Art. 1, §  
3(b); Code Civ. Proc. § 1085

## **INTRODUCTION**

1. This action challenges the failure of the City of San Buenaventura and its City Clerk to provide documents related to the deadly 2017 Thomas Fire, one of the largest in California's history, pursuant to the California Public Records Act ("CPRA"), Government Code section 6250 et seq. Petitioner Stephen Bennett requested certain documents to provide the public with an understanding of how the City might better respond to future fire-related disasters. The requested documents include existing records and communications related to water tanks, water hydrants, generators, and supplemental fire personnel. The City's failure to release such records, which were generated in the standard course of business, undermines California's policy of government transparency.

2. The City has infringed on Mr. Bennett's fundamental constitutional and statutory rights to access documents related to the people's business. Specifically, the City is unlawfully withholding records that Mr. Bennett requested pursuant to the CPRA, for which there are no applicable exemptions. The City has also failed to provide adequate and timely reasons for not providing the documents, effectively stonewalling Mr. Bennett's rights of review. Likewise, the City's failure to provide the requested documents violates Article I, section 3 of the California Constitution, which gives the people the right to access information concerning the conduct of the people's business, including the writings of public officials and agencies.

3. Prompt access to these documents is necessary to fulfill the purpose of the CPRA and Article I, Section 3. Thus, Mr. Bennett is entitled to a peremptory writ of mandate directing the City to provide Mr. Bennett with all withheld documents responsive to his request ("Withheld Documents").

## **PARTIES**

4. Petitioner Stephen Bennett is an individual residing in the City of San Buenaventura. He is also the elected District 1 Supervisor of Ventura County, though he undertakes this litigation in his personal capacity. Through this litigation, he seeks to better inform his community about mechanisms to improve the City's preparedness for fire-related

1 disasters. Mr. Bennett submitted written comments to the City objecting to the City's  
2 compliance with the CPRA.

3         5.       Mr. Bennett has a direct and beneficial interest in the City's compliance with the  
4 CPRA and the California Constitution in its response to his request for records. These interests  
5 are harmed by the City's refusal to comply with the CPRA and the California Constitution. The  
6 maintenance and prosecution of this action will confer a substantial benefit on the public by  
7 providing access to records concerning the City's response to the Thomas Fire and potential  
8 means of improving the City's disaster preparedness.

9         6.       Respondent the City of San Buenaventura is a local government agency and  
10 political subdivision of the State of California. The City has a duty to comply with the CPRA  
11 and the California Constitution.

12         7.       Respondent City Clerk of the City of San Buenaventura is an employee of the City  
13 of San Buenaventura and is responsible for providing access to public records and information.  
14 Mr. Bennett received a response to his request from the City Clerk, asserting the application of  
15 CPRA exemptions. The City Clerk has a duty to comply with the CPRA and the California  
16 Constitution when carrying out acts for the City.

17         8.       Petitioner is unaware of the true names and capacities of Respondents Does 1  
18 through 20 and sue such respondents by fictitious names. Petitioner is informed and believes,  
19 and on that basis alleges, the fictitiously named respondents are also responsible for the actions  
20 described in this Petition. When the true identities and capacities of these respondents have been  
21 determined, Petitioner will amend this petition, with leave of the Court if necessary, to insert  
22 such identities and capacities.

### 23                                 **JURISDICTION AND VENUE**

24         9.       This Court has jurisdiction under California Government Code sections 6258 and  
25 6259, and California Code of Civil Procedure section 1085.

26         10.       Venue is proper in this Court under California Code of Civil Procedure section  
27 394 because the City is a local agency situated in Ventura County. Venue is additionally proper  
28

under section 393 because the City Clerk is a public officer and the actions and omissions forming the basis of the cause of action occurred in Ventura County.

11. Petitioner has performed any and all conditions precedent to filing this action and has exhausted any and all available administrative remedies to the extent possible and required by law. Petitioner provided objections concerning the City's response to his request.

12. Respondents have taken final agency actions with respect to Petitioners' request. Respondents have a duty to comply with applicable state laws, including but not limited to the CPRA and the California Constitution.

13. Petitioner has no plain, speedy, or adequate remedy in the course of ordinary law unless this Court grants the requested writ of mandate to require Respondents to produce the documents. In the absence of this remedy, Respondents' will continue to refuse to provide the documents, in violation of State law. No money damages or legal remedy could adequately compensate Petitioner for that harm.

14. This petition is timely filed.

### **THE CALIFORNIA PUBLIC RECORDS ACT**

15. Under the CPRA, upon request, any public agency must make publicly available for inspection and copying any record that it prepared, owns, uses, or retains that is not subject to statutory exemptions to disclosure. Gov. Code § 6253.

16. Before withholding any record responsive to a valid request under the CPRA, the agency must "demonstrat[e] that the record in question is exempt under [the CPRA's] express provisions . . . or that on facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." Gov. Code § 6255.

17. Any person may institute proceedings by certified petition for writ of mandate to enforce his or her right to inspect or receive a copy of any public record or class of public records, including if any agency improperly asserts an exemption. Gov. Code §§ 6258, 6259.

18. The court must award costs and reasonable attorney fees to a prevailing petitioner, to be paid by the agency from which the petitioner requested records. Gov. Code § 6259(d).

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

**GENERAL ALLEGATIONS**

20. In 2017, the Thomas Fire burned nearly 300,000 acres in the County of Ventura. At the time, it was the largest wildfire in modern California history and caused devastating fatalities, destroyed thousands of structures, and resulted in billions of dollars in damages. While investigators determined that Southern California Edison power lines ignited the fire, affected residents have also been concerned about the City's response. Failures of City fire-fighting infrastructure (including water tanks and generators) may have exacerbated the fire's impacts. Residents are concerned that the City has done little to address these issues, leaving the City ill-prepared for another significant wildfire.

as Fire burned nearly 300,000 a

21. Stephen Bennett serves on the Ventura County Board of Supervisors and represents the citizens of District 1. In this role, he heard from constituents who had tried to gather information about the City's response but were unable to obtain information from the City. Given the weight of the Thomas Fire's devastation, Mr. Bennett sought to ensure that his constituents are well-prepared and kept as safe as possible during any potential future wildfires. Therefore, pursuant to the CPRA, Mr. Bennett requested documents related to the 2017 Thomas Fire on March 25, 2019 (the "March 25 Request"). A true and correct copy of the March 25 Request is attached as Exhibit A. Mr. Bennett's requests were detailed and specific, and sought existing records and communications consisting of records of water levels in certain tanks during the fire, records of water tank failure, communication regarding water pressure at city hydrants during the fire, records of generators, and records of fire personnel staffing.

22. On April 4, 2019, Antoinette M. Mann, City Clerk of the City of San Buenaventura, responded to Mr. Bennett's request (the "April 4 Letter"). A true and correct copy of the April 4 Letter is attached as Exhibit B. The April 4 Letter refused to provide access to the vast majority of these records, and listed the following CPRA exemptions: (1) Government Code section 6254(b) "[records pertaining to pending litigation to which a public agency is a party or to claims made under the California Government Claims Act]," (2) Government Code section 6254(k) "[attorney-client, attorney work-product prepared for use in pending litigation or claims]" and (3) Government Code section 6255(a) "[the public interest served by not disclosing these records clearly outweighs the public interest served by disclosing them because the city is subject to pending and potential litigation as a defendant and as a plaintiff related to the Thomas Fire]."

23. On April 17, 2019, Mr. Bennett submitted a Supplemental Request (the "April 17 Supplemental Request"), which sought additional documents concerning fire personnel staffing. A true and correct copy of the April 17 Supplemental Request is attached as Exhibit C.

24. On April 17, Mr. Bennett's attorney sent a letter to Ms. Mann demanding that the City reconsider its response in the April 4 Letter and provide access to the materials requested by Mr. Bennet (the "Demand Letter"). A true and correct copy of the April 17 Demand Letter is attached as Exhibit D. The Demand Letter acknowledged that the City had provided access to records responsive to Request No. 7 and limited records responsive to Requests No. 4 and 5. The Demand Letter refuted the three exemptions listed in the April 4 Letter and asked for a response from the City within two weeks of receipt. Specifically, the Demand Letter explained that:

a. The requested documents were created for internal management and operations purposes, and not for potential litigation;

b. The requested documents concern factual information related to water tanks, water pressure, generators, and fire personnel, not information subject to attorney work product or attorney-client privilege; and

1           c.       The City had provided no adequate justification for application of the  
2 “catchall” exemption found in Government Code section 6255(a).

3           25.     On April 29, 2019, Ms. Mann sent Mr. Bennett a letter (the “April 29 Letter”). A  
4 true and correct copy of the April 29 Letter is attached as Exhibit E. The April 29 Letter stated  
5 that “[a]n additional fourteen days, until May 13, 2019, will be needed beyond the statutory ten  
6 days to respond to [the] request [and] is necessary due to ‘[t]he need to search for, collect, and  
7 appropriately examine a voluminous amount of separate and distinct records that are demanded  
8 in a single request.’”

9           26.     On May 9, 2019, Andy Viets, Senior Assistant City Attorney, responded to the  
10 March 25 Request and April 17 Supplemental Request (the “May 9 Letter”). A true and correct  
11 copy of the May 9 Letter is attached as Exhibit F. The May 9 Letter stated that “[t]he City [had]  
12 completed review with respect to request Nos. 8 and 9 in the original request and, without  
13 waiving any of the exemptions asserted, . . . determined it is willing to disclose the records  
14 originally withheld.” With regards to request Nos. 1 through 6, however, the City claimed it  
15 “require[d] initial time to review the arguments in [the Demand] letter and re-evaluate the  
16 records and exemptions.”

17           27.     On May 17, 2019, Ms. Clark wrote a letter requesting a complete response to the  
18 Demand Letter by May 29, 2019, giving the City a total of six weeks to respond (the “May 17  
19 Letter”). A true and correct copy of the May 17 Letter is attached as Exhibit G. Ms. Clark noted  
20 that the May 9 Letter did “not comply with the [CPRA] and [was] unacceptable to [her] client.”  
21 Furthermore, the May 17 Letter noted the unacceptable length of time the City took to review  
22 the Demand Letter, as the City was now requesting an “unspecified number of additional  
23 weeks.” Mr. Bennett had informed Ms. Clark that such delay is part of a repeated practice by the  
24 City to avoid responding to requests for factual information regarding the Thomas Fire.

25           28.     Finally, on June 18, 2019, Edward B. Kang, an attorney for the City, wrote a letter  
26 to Ms. Clark, which states that requests Nos. 1, 2, 3, and 6 and requests Nos. 4 and 5 (documents  
27 between December 4-10, 2017 only) are exempt from the same three CPRA disclosures and that  
28 “the City will not be producing any records in response” for those requests (the “June 18

Letter”). A true and correct copy of the June 18 Letter is attached as Exhibit H. These records are referred to herein as the “Withheld Records.”

**FIRST CAUSE OF ACTION**

**Against All Respondents**

(California Public Records Act, Gov. Code § 6250 et seq.; CCP § 1085)

29. Mr. Bennett hereby incorporates by reference each and every allegation set forth above.

30. Under the CPRA, Mr. Bennett has a clear, present, and legal right to inspect, and the City has a present legal duty to provide promptly and without delay, public records subject to disclosure.

31. Mr. Bennett submitted valid requests for records under the CPRA on March 25, 2019 and April 17, 2019.

32. The City admits that it possesses the Withheld Records.

33. The City cannot demonstrate that any of the Withheld Records, or any portion of those records, is exempt under the express provisions of the CPRA or any other authority, or that on the facts of this particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure.

34. The Department has failed to disclose the Withheld Records, in violation of the CPRA.

35. As a result of the foregoing defects, Respondents prejudicially abused their discretion and failed to proceed in the manner required by law by refusing to provide the Withheld Documents.

36. Mr. Bennet is entitled to a writ of mandate to enforce its and the public’s right to obtain the Requested Records pursuant to the CPRA.



1 **SECOND CAUSE OF ACTION**

2 **Against All Respondents**

3 (Article 1, Section 3(b) of the California Constitution; CCP § 1085)

4 37. Mr. Bennett hereby incorporates by reference each and every allegation set forth  
5 above.

6 38. Article 1, Section 3(b) of the California Constitution enshrines the public's right to  
7 access to information about how the government is conducting the people's business.

8 39. This constitutional provision requires that any statute or court rule must be broadly  
9 construed if it furthers the public's right of access and narrowly construed if it limits the right of  
10 access.

11 40. The Requested Records are clearly included within these constitutional mandates  
12 regarding the public's right of access. The City has a present legal duty to provide the Withheld  
13 Documents.

14 41. As a result of the foregoing defects, Respondents prejudicially abused their  
15 discretion and failed to proceed in the manner required by law by refusing to provide the  
16 Withheld Documents.

17 42. Mr. Bennet is entitled to a writ of mandate to enforce its and the public's right to  
18 obtain the Requested Records pursuant to the California Constitution.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner prays for judgment as follows:

21 1. That the Court issue a peremptory writ of mandate directing the City to provide  
22 Mr. Bennett with all of the Requested Records within ten (10) days of the Court's order  
23 directing the City to do so;

24 2. For a declaration pursuant to Government Code section 6259 that the Department  
25 has violated Mr. Bennett's rights under the California Constitution, Article 1, section 3, and  
26 Government Code sections 6250 et seq.;

27 3. For costs of the suit;

1        4.     For attorneys' fees under Government Code section 6259, Code of Civil Procedure  
2 section 1021.5, and other applicable authority; and

3        5.     For such other and further relief as the Court deems just and proper.

4 DATED: August 2, 2019

SHUTE, MIHALY & WEINBERGER LLP

6  
7 By:



8  
9 SARA A. CLARK

10  
11 Attorneys for Petitioner Stephen Bennett  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I am Petitioner in this action. I have read the foregoing Petition for Writ of Mandate and am familiar with its contents. All facts alleged in the above Petition, and not otherwise controverted by exhibits or other documents, are true of my own knowledge, except to matters stated as matters of information and belief, and as to those matters, I believe them to be true.

Executed this 30 day of July, 2019, in VENTURA, California.

Stephen Bennett

1142025.3

# EXHIBIT A

Public Records Request per the Public Records Act

March 25, 2019

From: Steve Bennett [stephenbennett@charter.net](mailto:stephenbennett@charter.net) cell phone 805 850 5663

To: Ventura City Manager Alex McIntyre,

Dear Mr. McIntyre, Please redirect this to the appropriate persons and or departments.

Please provide copies of any and all public records including emails of the City of San Buenaventura including but not limited to the City of Ventura's Water Department and Fire Department as listed below.

1. All records of water levels in each of the water tanks above Poli Street or Foothill Road starting on December 1, 2017 and through December 6, 2017.
2. Any and all records of when various water tanks referenced in #1 above lost the ability to provide minimum fire flows to hydrants.
3. Emails or communication indicating what time water pressure dropped at any city fire hydrant that caused fire trucks to leave that hydrant connection on December 4, or December 5 of 2017.
4. All records of generators purchased or rented, to provide backup power to the water system in the event of a power failure, from January 1, 2000 through December 10<sup>th</sup>, 2017 including the date of purchase or rental.
5. All records of locations of those generators starting on December 1, 2017 and through December 11, 2017.
6. All records of movements of the generators listed in items #4 and #5 above on December 4, or December 5 of 2017.
7. All records, with names redacted, of fire personnel, with rank, on duty as of 6:00 PM December 4, 2017.
8. All records, with names redacted, of fire personnel, with rank, placed on the payroll to supplement normal staffing from 6:00 PM December 4, 2017 through 11:59 P.M. December 4, 2017, including the time their service began that date.
9. All records, with names redacted, of fire personnel, with rank, placed on the payroll to supplement normal staffing starting at 12:00 AM December 5, 2017 through 6:00 AM. December 5, 2017, including the time their service began that date.

# EXHIBIT B

April 4, 2019

Steve Bennett  
stephenbennett@charter.net

**Re: Public Records Act Request – March 25, 2019**

Dear Mr. Bennett:

The following is in response to your March 25, 2019 Public Records Act requests, based on the numbering system in your letter:

Nos. 1, 2, 3, 6, 8 and 9:

These records are exempt from disclosure pursuant to (1) Government Code §6254(b) [records pertaining to pending litigation to which a public agency is a party or to claims made under the California Government Claims Act], (2) Government Code §6254(k) [attorney-client privileged communications and attorney work product prepared for use in pending litigation or claims], and (3) Government Code §6255(a) [the public interest served by not disclosing these records clearly outweighs the public interest served by disclosing them because the City is subject to pending and potential litigation as a defendant and as a plaintiff related to the Thomas Fire]. The City will therefore not be producing these records. This decision was made by the undersigned in conjunction with the Office of the City Attorney.

Nos. 4 and 5:

The records in response to these requests involving information prior to December 4, 2017 are available in the City Clerk's Office for your inspection.

The records in response to these requests involving information between December 4, 2017 and December 10, 2017 are exempt from disclosure pursuant to (1) Government Code §6254(b) [records pertaining to pending litigation to which a public agency is a party or to claims made under the California Government Claims Act], (2) Government Code §6254(k) [attorney-client privileged communications and attorney work product prepared for use in pending litigation or claims], and (3) Government Code §6255(a) [the public interest served by not disclosing these records clearly outweighs the public interest served by disclosing them because the City is subject to pending and potential litigation as a defendant and as a plaintiff related to the Thomas Fire]. The City will therefore not be producing these records. This decision was made by the undersigned in conjunction with the Office of the City Attorney.

Mr. Bennett  
April 4, 2019  
Page 2

No. 7:

The records in response to this request are available in the City Clerk's Office for your inspection.

For the records that are noted as available, please contact the City Clerk's Office at 805-658-4787 to schedule a time to inspect the materials. If you decide you want copies of the records, the required payment is \$.15 per page. Thank you for your attention to the above.

If you have any questions, please do not hesitate to contact me at (805) 658-4745 or [amann@cityofventura.ca.gov](mailto:amann@cityofventura.ca.gov)

Sincerely,

A handwritten signature in blue ink that reads "Antoinette Mann". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Antoinette M. Mann  
City Clerk

cc: City Attorney, Ventura Water, Fire Department, Public Works



# EXHIBIT C

Public Records Request per the Public Records Act

April 17, 2019

From: Steve Bennett [stephenbennett@charter.net](mailto:stephenbennett@charter.net) cell phone 805 850 5663

To: Ventura City Clerk Antoinette Mann and Ventura City Manager Alex McIntyre,

Dear Ms. Mann and Mr. McIntyre,

Please provide copies of any and all public records including emails of the City of San Buenaventura including but not limited to the City of Ventura's Water Department and Fire Department as listed below.

1. All payroll and other records, of fire department personnel showing when their service time began and ended on the days of December 4, 2017, December 5, 2017, December 6, 2017 and December 7, 2017.

1146788.1

# EXHIBIT D

SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

SARA A. CLARK  
Attorney  
Clark@smwlaw.com

April 17, 2019

**Via E-Mail and U.S. Mail**

Antoinette M. Mann  
City Clerk  
City of Ventura  
501 Poli Street, Room 204  
Ventura, CA 93002  
E-Mail: [amann@cityofventura.ca.gov](mailto:amann@cityofventura.ca.gov)

Re: Public Records Act Request – March 25, 2019

Dear Ms. Mann:

I write in response to your April 4, 2019 letter directed to my client Steve Bennett concerning his Public Record Act request to the City of Ventura. For the reasons outlined below, your response does not comply with either the letter or the spirit of the Public Records Act. For this reason, I urge the City to reconsider its response and provide access to the materials requested by Mr. Bennett. If the City continues to refuse to comply with the Public Records Act, however, we are prepared to seek a court order directing your compliance.

Mr. Bennett initially requested documents related to the 2017 Thomas Fire, as shown in Exhibit A. His requests were detailed and specific, and sought existing records and communications related to water tanks, water hydrants, generators, and supplemental fire personnel. In response, the City refused to provide access to the vast majority of such records, claiming application of three exemptions.<sup>1</sup> None of these exemptions, however, are applicable to Mr. Bennett's requests.

---

<sup>1</sup> Mr. Bennett acknowledges that the City has provided access to records responsive to Request No. 7 and limited records responsive to Requests Nos. 4 and 5.

*Pending Litigation Exemption*

The City first relies on Government Code section 6254(b), which exempts from disclosure “[r]ecords pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.”

While the language in subsection (b) may suggest a broad application of this exemption, the Courts of Appeal have “given it a more restricted reading.” *County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 64. Specifically, “[a] document is protected from disclosure under the pending litigation exemption only if the document *was specifically prepared for use in litigation.*” *Id.* (emphasis in original). This construction focuses “on the purpose of the document” and serves to protect only those documents “created by a public agency for its own use in anticipation of litigation.” *Board of Trustees v. Sup. Ct.* (2005) 132 Cal.App.4th 889, 897.

As a result of this more limited interpretation, there are a number of significant problems with respect to the City’s application of the pending litigation exemption to the requested documents. First, none of Mr. Bennett’s requests seek records or communications that would have been “specifically prepared for use in litigation.” *Id.* He seeks standard tracking documents and records concerning water tanks, water pressure, generators, and fire personnel. The City likely created or maintained such documents for internal management and operations purposes, *not* for potential litigation.

Second, even if such documents may ultimately be relevant to Thomas Fire litigation, such “dual purpose” documents are still subject to disclosure. Specifically, to the extent a document may be prepared for dual purposes, it is only exempt under the pending litigation exemption if the litigation use was the “dominant purpose” behind its creation. *Id.* at 65. Again, the records requested by Mr. Bennett are not likely to be documents created *specifically* for litigation, but for general City operations.

Finally, the City faces a significant timing problem. According to our research, the earliest complaints related to the Thomas Fire were not filed until December 13, 2017; the City may not have been served until after this time.<sup>2</sup> Records created between December 4th and 11th could not have been “specifically prepared for use in litigation,” as no litigation was pending at that time. Even if the City could have

---

<sup>2</sup> See, e.g., <https://www.usatoday.com/story/news/nation-now/2018/01/04/lawsuits-allege-southern-california-edison-negligently-started-thomas-fire/1005879001/> (lawsuits filed December 13, December 15 and December 22, 2017).

reasonably anticipated that it would soon become a plaintiff and/or defendant in Thomas Fire litigation, the chance that the requested records were specifically prepared for such anticipated litigation, as opposed to standard tracking or management tasks, is remote or non-existent.

The City draws a distinction between records concerning the purchase, rental, and location of generators dated prior to December 4, 2017 (“pre-fire generator records”) and those records dated between December 4, 2017 and December 10, 2017 (“during-fire generator records”).<sup>3</sup> But this distinction is without a difference. The during-fire generator records sought by Mr. Bennett were not “specifically prepared for use in litigation,” but are records of City operations. While we acknowledge that these documents may now be relevant to Thomas Fire litigation, the City “cannot take records which were not exempted in their genesis and transform them into exempt ‘litigation’ documents simply because they *later* become relevant to a lawsuit.” *City of Los Angeles v. Superior Court (Axelrad)* (2000) 82 Cal.App.4th 819, 831.

#### *Attorney-Client Privilege Exemption*

The City next relies on Government Code section 6254(k), which exempts from disclosure “[r]ecords, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.” This subsection has been interpreted to encompass documents subject to attorney-client privilege and attorney work product privilege, as referenced in your response letter. *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1420-22.

Attorney-client privilege confers a privilege on the client “to refuse to disclose, and to prevent another from disclosing, a confidential communication between client and lawyer.” Evid. Code § 954. Consequently, an agency may refuse to disclose confidential communications with an agency lawyer concerning his or her legal opinions and advice. *Los Angeles County Bd. of Supervisors v. Sup. Court* (2016) 2 Cal.5th 282, 292-93. Likewise, the attorney work product rule “creates for the attorney a qualified privilege against discovery of general work product and an absolute privilege against disclosure of writings containing the attorney’s impressions, conclusions, opinions, or legal theories.” *Axelrad*, 82 Cal.App.4th at 833. This rule therefore exempts from disclosure documents and other records drafted by an attorney or containing his or her opinions or conclusions.

---

<sup>3</sup> The Thomas Fire began on December 4, 2017 and was not extinguished until January 12, 2018. See [https://en.wikipedia.org/wiki/Thomas\\_Fire](https://en.wikipedia.org/wiki/Thomas_Fire).

None of the records requested by Mr. Bennett obviously relate to attorney work product or attorney-client communication. As discussed above, the requested records concern factual information related to water tanks, water pressure, generators, and fire personnel. While we acknowledge that attorney materials *analyzing* these factual matters or their implication for City liability could be protected based on Government Code section 6254(k), the underlying factual records are decidedly not. *E.g.*, *State Farm Fire & Casualty Co. v. Sup. Ct.* (1997) 54 Cal.App.4th 625, 640 (attorney-client privilege “does not protect disclosure of underlying facts which may be referenced within a qualifying communication”).

The City again draws an irrelevant distinction between pre-fire generator records and during fire generator records. Facts do not become privileged simply because they may be communicated to or relied on by an attorney in assessing litigation risk.

#### *Public Interest Exemption*

Finally, the City relies on the “catchall” exemption found in Government Code section 6255(a), which allows a public agency to withhold a record by demonstrating that “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

The courts have repeatedly held that this catchall exemption must be construed against the presumption of disclosure enshrined in the state’s constitution. “The people have a right of access to information concerning the conduct of the people’s business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny.” Cal. Const., art. I, § 3(b)(1). To support this right, the Public Records Act must be “broadly construed if it furthers the people’s right of access and narrowly construed if it limits the right of access.” Cal. Const., art. I, § 3(b)(2). Consequently, an agency is entitled to rely on the catchall exemption only if it can “demonstrate a clear overbalance” in favor of nondisclosure. *Los Angeles County Bd. of Supervisors v. Sup. Ct.* (2016) 2 Cal.5th 282, 291.

The City’s letter provides no adequate justification for the application of the public interest exception. The only reason provided is that the “City is subject to pending and potential litigation as a defendant and as a plaintiff related to the Thomas Fire.” However, an agency’s own interest in concealing factual information that may be relevant to ongoing litigation is not adequate to outweigh the public interest in understanding mechanisms to better protect city residents in future catastrophic fires. *See* California Attorney General’s Office, Summary of the California Public Records Act

(2004), at 11 (“A particular agency’s interest in nondisclosure is of little consequence in performing this balancing test; it is the public’s interest, not the agency’s that is weighed.”); League of California Cities, *The People’s Business, A Guide to the California Public Records Act* (April 2017), at 54 (“Agency interests . . . that are not also public interests are not considered.” (citing *Coronado Police Officers Assn. v. Carroll* (2003) 106 Cal.App.4th 1001, 1015-16)). The City has identified no *public* interest that would be served by keeping these records confidential; indeed, we can identify none.

*Supplemental April 17, 2019 Request*

On April 17, 2019, Mr. Bennet submitted a supplemental request to the City of Ventura. To the extent the City intends to apply any of the cited exemptions to the supplemental request, I reiterate the points raised above. The newly requested documents are not subject to the pending litigation or the catchall exemption, nor are they protected as attorney-client communications or work product. Instead, the requested records are created and kept in the course of ordinary business for human resources and operations purposes.

*Conclusion*

According to the California Courts of Appeal, exemptions under the Public Records Act “are to be narrowly construed [], and the government agency opposing disclosure bears the burden of proving that one or more apply in a particular case.” *County of Los Angeles v. Sup. Ct.* (2012) 211 Cal.App.4th 57, 63; *County of Los Angeles v. Sup. Ct.* (2000) 82 Cal.App.4th 819, 825. The City has not met its burden here. We urge you to reconsider your position and to release the documents to Mr. Bennett as soon as possible.

To the extent the City continues to refuse to provide the requested records, we request that you prepare a privilege log to assist us in better understanding the scope of the responsive documents and the application of the cited exemptions. Such documentation may help us avoid lengthy and expensive litigation. However, to the extent the City refuses to provide an adequate explanation regarding the requested records, we are prepared to seek relief in superior court.

**We ask for a response from the City within two weeks of receipt.** If you have any questions, please do not hesitate to contact me.



City of Ventura  
April 17, 2019  
Page 6

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Sara A. Clark

cc: Gregory Diaz, City Attorney (via email only to: [cityattorney@cityofventura.ca.gov](mailto:cityattorney@cityofventura.ca.gov))  
Steve Bennett (via email only to: [stephenbennett@charter.net](mailto:stephenbennett@charter.net))

# EXHIBIT E

April 29, 2019

Steve Bennett  
[stephenbennett@charter.net](mailto:stephenbennett@charter.net)

**Re: Public Records Act Request – April 17, 2019**

Dear Mr. Bennett:

As a preliminary matter, the California Public Records Act authorizes members of the general public the right to inspect and receive copies of existing records which have been reasonably identified by the requestor and are not otherwise exempt from disclosure. These records may be viewed during normal business hours at no cost. In addition, the CPRA does not require the City to create new documents or lists for your convenience.

We have received your California Public Records Act request dated April 17, 2019. An additional fourteen days, until May 13, 2019, will be needed beyond the statutory ten days to respond to your request. See Cal. Gov't Code §6253(c). The additional fourteen days is necessary due to:

The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

Sincerely,

*Antoinette Mann*

Antoinette M. Mann  
City Clerk

cc: Sara Clark ([clark@smwlaw.com](mailto:clark@smwlaw.com)) City Attorney's Office,

# EXHIBIT F

CITY OF  
**VENTURA**  
CITY ATTORNEY

May 9, 2019

Sara A. Clark  
[Clark@smwlaw.com](mailto:Clark@smwlaw.com)

CC: Mr. Steve Bennett  
[stephenbennett@charter.net](mailto:stephenbennett@charter.net)

**Re: Public Records Act Request (March 25, 2019)**

Dear Ms. Clark:


The City has received your letter dated April 17, 2019 regarding your client's Public Records Act request dated March 25, 2019, and Supplemental Request submitted April 17, 2019. My colleague Miles Hogan has spoken briefly with you twice regarding your letter – first, confirming that correspondence regarding this matter should be sent to you with a copy to your client, and second, informing you that your letter was under consideration and that the City needed an additional two weeks to consider and respond. In addition, the City Clerk's Office sent a letter to you and your client on April 29, 2019, extending the time for the City to respond to your client's Supplemental Request by two weeks.

Upon receipt of your letter, the City began a process of reviewing the arguments therein and re-evaluating the records withheld under the applicable exemptions under the California Public Records Act. The City has completed that review with respect to request Nos. 8 and 9 in the original request and, without waiving any of the exemptions asserted, the City has determined it is willing to disclose the records originally withheld. Those documents are attached to this letter. Those documents also address your client's Supplemental Request and the City's response to that request is now complete.

For the remaining records withheld under original request Nos. 1 through 6, the City requires additional time to review the arguments in your letter and re-evaluate the records and exemptions. At this time, we anticipate completing that process in the next couple of weeks.

Thank you for your attention to the above. If you have any questions, please do not hesitate to contact me.

Sincerely,



Andy Viets  
Senior Assistant City Attorney

## Monday, December 04, 2017

## Ventura City Fire Department

## Administration

## Administrative

12/15/2017 17:41:42 08:00 17:00 9

## Administrative Offices

## Fire Chief

☐ Fire Chief

FC101 ✓

## Assistant Fire Chief

☐ Assistant Fire Chief

AF101 ✓

☐

ED580 ✓ 19:00 08:00 13

## Training Chief

☐ Battalion Chief

ATC101 ✓

## EMS Coordinator

☐ EMS Coordinator

AEMS101 ✓

## Administrative Staff

☐ Fire Chief Secretary

FC102 ✓

☐

AF102 ✓

Assistant Fire Chief  
Secretary☐ Budget Analyst

FC101 ✓

☐ Payroll Specialist

APD101 ✓

☐ Fire Cadet

FCR180 ✓ 07:00 15:00 8

☐

FCR180 ✓ 12:00 4

☐ Captain

RG580 ✓

☐ Firefighter PM

FMV199 ✓ 20:36 12.6

☐ Engineer

DS199 ✓ 20:36 12.6

## Fire Prevention

## Custom Schedule

12/15/2017 16:42:23 00:00 00:00 24

## Fire Prevention Offices

## Inspector

☐ FP Inspector

FCR180 ✓ 08:00 17:00 9

## Administrative

12/15/2017 16:42:23 08:00 17:00 9

## Fire Prevention Offices

## Inspector

☐ FP Inspector

FPR579 ✓

☐

FPR101 ✓ 17:00 18:00 1

☐

FPR101 ✓ 21:00 00:00 3

## Fire Marshal

☐ Fire Marshal

FPR101 ✓

☐







































FPR580 ✓ 21:00 00:00 3
























## Fire Prevention Supervisor

FP Supervisor	FPR579	✓			
<input checked="" type="checkbox"/> Specialist					
<input type="checkbox"/> FP Specialist	FPR579	✓			
<input type="checkbox"/>		✓	✗ 22:00 00:00	2	
<input type="checkbox"/> FP Specialist	FPR579	✓			
<input checked="" type="checkbox"/> Technician					
<input type="checkbox"/> FP Technician	FPR579	✓			
<input type="checkbox"/>		✓	✗ 21:00 00:00	3	
<input checked="" type="checkbox"/> Secretary					
<input type="checkbox"/> FP Secretary	FPR102	✓			
<input checked="" type="checkbox"/> Battalion 10					
<input checked="" type="checkbox"/> A Shift			08:00 08:00	24	
<input checked="" type="checkbox"/> BC Quarters					
<input checked="" type="checkbox"/> Command B10					
<input type="checkbox"/> Battalion Chief	RG580				
<input checked="" type="checkbox"/> Command B10B					
<input type="checkbox"/> (.Battalion Chief)					
<input checked="" type="checkbox"/> Command B10C					
<input type="checkbox"/> (.Battalion Chief)					
<input checked="" type="checkbox"/> Station 1					
<input checked="" type="checkbox"/> Medic Engine 1					
<input type="checkbox"/> Captain	RG580	✓	18:30	10.5	
<input type="checkbox"/>	ROUT539	✓	18:30	13.5	
<input type="checkbox"/> Engineer	RG580	✓	18:30	10.5	
<input type="checkbox"/>	ROUT539	✓	18:30	13.5	
<input type="checkbox"/> Firefighter PM	HSV199	✓			
<input type="checkbox"/>		✓			
<input type="checkbox"/> .Firefighter PM					
<input checked="" type="checkbox"/> Station 2					
<input checked="" type="checkbox"/> Medic Engine 2					
<input type="checkbox"/> Captain	RG580	✓	18:30	10.5	
<input type="checkbox"/>	ROUT539	✓	18:30	13.5	
<input type="checkbox"/> Engineer	RG580	✓	18:30	10.5	
<input type="checkbox"/>	ROUT539	✓	18:30	13.5	
<input type="checkbox"/> Firefighter PM	TO580	✓	18:30	10.5	
<input type="checkbox"/>	MM583		18:30	13.5	

<input type="checkbox"/>		SA103			
<input checked="" type="checkbox"/> Medic Engine 102 @ St. 2					
<input type="checkbox"/> Captain				19:30	12.5
<input type="checkbox"/> Engineer				19:30	12.5
<input type="checkbox"/> Firefighter PM				19:30	12.5
<input type="checkbox"/> Firefighter PM				16:30	15.5
<input checked="" type="checkbox"/> Station 3					
<input checked="" type="checkbox"/> Medic Engine 3					
<input type="checkbox"/> Captain		RG580		18:30	10.5
<input type="checkbox"/>		ROUT539		18:30	13.5
<input type="checkbox"/> Engineer		RG580		18:30	10.5
<input type="checkbox"/>		ROUT539		18:30	13.5
<input type="checkbox"/> Firefighter PM		SA108		11:00	3
<input type="checkbox"/>				11:00	3
<input type="checkbox"/>		RG580		11:00 18:30	7.5
<input type="checkbox"/>		ROUT539		18:30	13.5
<input checked="" type="checkbox"/> Medic Engine 101 @ St. 1					
<input type="checkbox"/> Captain				19:30	12.5
<input type="checkbox"/> Engineer		MMQ580		19:30	12.5
<input type="checkbox"/> Firefighter PM		MMQ580		19:30	12.5
<input checked="" type="checkbox"/> Medic Engine 103 @ St. 1					
<input type="checkbox"/> Captain				00:41	7.32
<input type="checkbox"/> Engineer				18:30	13.5
<input type="checkbox"/> Firefighter PM				00:41	7.32
<input checked="" type="checkbox"/> Station 4					
<input checked="" type="checkbox"/> Medic Engine 4					
<input type="checkbox"/> Captain		RG580		18:30	10.5
<input type="checkbox"/>		ROUT539		18:30	13.5
<input type="checkbox"/> Engineer		RG580		18:30	10.5
<input type="checkbox"/>		ROUT539		18:30	13.5
<input type="checkbox"/> Firefighter PM				18:30	10.5
<input type="checkbox"/>		MA539		18:30	13.5
<input checked="" type="checkbox"/> Medic Engine 106 @ St. 4					
<input type="checkbox"/> Captain		MMQ580		20:30	11.5
<input type="checkbox"/> Engineer		MMQ580		20:30	11.5
<input type="checkbox"/> Firefighter PM		MMQ580		20:30	11.5



<input checked="" type="checkbox"/> Station 5					
<input checked="" type="checkbox"/> Medic Engine 5					
<input type="checkbox"/> Captain	FS199				
<input type="checkbox"/>	SA108			18:30	10.5
<input type="checkbox"/>	MA538			18:30	13.5
<input type="checkbox"/> Engineer	RG580			18:30	10.5
<input type="checkbox"/>	ROUT539			18:30	13.5
<input type="checkbox"/> Firefighter PM	SA108				
<input type="checkbox"/>	ROUT539			18:30	10.5
<input type="checkbox"/>	MA538			18:30	13.5
<input checked="" type="checkbox"/> Medic Truck 5					
<input type="checkbox"/> Captain	RG580				
<input type="checkbox"/> Engineer	RG580				
<input type="checkbox"/> Firefighter PM	RG580				
<input type="checkbox"/> Firefighter PM	RG580				
<input checked="" type="checkbox"/> Station 6					
<input checked="" type="checkbox"/> Medic Engine 6					
<input type="checkbox"/> Captain HM	RG580			18:30	10.5
<input type="checkbox"/>	ROUT539			18:30	13.5
<input type="checkbox"/> Engineer HM	RG580			18:30	10.5
<input type="checkbox"/>	ROUT539			18:30	13.5
<input type="checkbox"/> Firefighter PM	RG580			18:30	10.5
<input type="checkbox"/>	ROUT539			18:30	13.5
<input checked="" type="checkbox"/> Off Roster					
<input checked="" type="checkbox"/> Off Roster Shift	12/14/2017 16:25:09		08:00 08:00		0
<input checked="" type="checkbox"/> Off Roster					
<input checked="" type="checkbox"/> {off roster}					
<input type="checkbox"/> {,Captain}	+SA108			09:00 12:00	3
<input type="checkbox"/> {,Firefighter PM}	+SA108			09:00 12:00	3
<input type="checkbox"/>	+SA108			09:00 12:00	3
<input type="checkbox"/>	+SA108			09:00 12:00	3
<input type="checkbox"/>	+SA108			09:00 12:00	3
<input type="checkbox"/>	+TC103			17:00	9
<input type="checkbox"/>	+SA108			09:00 12:00	3

<input type="checkbox"/> {Engineer}		 ✓	09:00 12:00	3
<input type="checkbox"/>		 ✓	09:00 12:00	3
<input type="checkbox"/> {Battalion Chief}	 +MEO580	 ✓	18:45 08:00 13.25 	
<input checked="" type="checkbox"/> Medic Engine 2				
<input type="checkbox"/> {Captain}		 ✓	09:00 12:00	3
<input checked="" type="checkbox"/> {off roster}				
<input checked="" type="checkbox"/> {off roster}				
<input type="checkbox"/> {Captain}		 ✓	07:00	1
<input type="checkbox"/>		 ✓	07:00	1
<input type="checkbox"/> {Engineer}		 ✓	07:00	1
<input type="checkbox"/>		 ✓	07:00	1
<input type="checkbox"/> {Firefighter PM}		 ✓	07:00	1
<input type="checkbox"/>		 ✓	07:00	1
<input type="checkbox"/> {Firefighter}		 ✓	07:00	1

☒ Tuesday, December 05, 2017

☒ Ventura City Fire Department

☒ Administration

☒ Administrative

☒ Administrative Offices

☒ Fire Chief

☐ Fire Chief

☒ Assistant Fire Chief

☐ Assistant Fire Chief

☐

☒ Training Chief

☐ Battalion Chief

☐

☒ EMS Coordinator

☐ EMS Coordinator

☐

☐

☒ Administrative Staff

☐ Fire Chief Secretary

☐

☐

Assistant Fire Chief  
Secretary

☐

☐

☐ Budget Analyst

☐

☐ Payroll Specialist

☐ Fire Cadet

☐

☐ Captain

☐ Firefighter PM

☐ Engineer

☒ Fire Prevention

☒ Custom Schedule

☒ Fire Prevention Offices

☒ Inspector

☐ FP Inspector

☐

☒ Administrative

12/15/2017 17:42:01 08:00 17:00 9

FC101 ✓

AF101 ✓

FC101 ✓ 17:00 08:00 15

ATC101 ✓

FC580 ✓ 17:00 08:00 15

MEC101 ✓ 06:00 08:00 2

AEMS101 ✓

FC101 ✓ 17:00 04:30 11.5

FC102 ✓

DT102 ✓ 17:00 20:00 3

DT102 ✓ 01:00 03:30 2.5

AF102 ✓

DT102 ✓ 17:00 21:00 4

FC101 ✓

FC101 ✓ 17:30 19:30 2

APD101 ✓

FCR102 ✓ 07:00 18:15 11.25

FCR102 ✓ 18:15 10.25

RG580 ✓

FMV199 ✓ 20:36 12.6

DS199 ✓ 20:36 12.6

12/15/2017 16:42:06 00:00 00:00 24

FCR180 ✓ 06:30 15:30 9

DT180 ✓ 15:30 20:30 5

12/15/2017 16:42:06 08:00 17:00 9

## [-] Fire Prevention Offices

## [-] Inspector

☐ FP Inspector

## [-] Fire Marshal

☐ Fire Marshal

## [-] Fire Prevention Superv

☐ FP Supervisor

## [-] Specialist

☐ FP Specialist☐ FP Specialist

## [-] Technician

☐ FP Technician

## [-] Secretary

☐ FP Secretary

## [-] Battalion 10

## [-] A Shift

## [-] BG Quarters

## [-] Command B10

☐ Battalion Chief

## [-] Command B10B

☐ (.Battalion Chief)

## [-] Command B10C

☐ (.Battalion Chief)

## [-] Station 1

## [-] Medic Engine 1 (Thorr

☐ Captain☐ Engineer☐ Firefighter PM

✓✗ 01:00 06:30 5.5

FPR101



FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

FPR101

12/15/2017 12:11:16 ✗ 08:00 08:00 24

ROUT539



RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

RG580

ROUT539

RG580

RG580

RG580

RG580





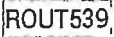



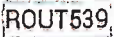





























RG580

RG580

<input type="checkbox"/>		HMVH0561	✓	23:15	8.75	
<input type="checkbox"/> .Firefighter PM		HMA539	✓	23:15	15.25	
<input checked="" type="checkbox"/> Medic Engine 101 @						
<input type="checkbox"/> Captain		ROUT539	✓	22:30	14.5	
<input type="checkbox"/> Engineer		ROUT539	✓	22:30	14.5	
<input type="checkbox"/> Firefighter PM		ROUT539	✓	22:30	14.5	
<input checked="" type="checkbox"/> Station 2						
<input checked="" type="checkbox"/> Medic Engine 2 (The						
<input type="checkbox"/> Captain		ROUT539	✓	19:00	11	
<input type="checkbox"/>		RG580	✓	19:00	13	
<input type="checkbox"/> Engineer		ROUT539	✓	19:00	11	
<input type="checkbox"/>		RG580	✓	19:00	13	
<input type="checkbox"/> Firefighter PM		HMA539	✓	19:00	11	
<input type="checkbox"/>		ROUT539	✓	19:00	13	
<input type="checkbox"/>		SA103	✓			
<input checked="" type="checkbox"/> Medic Engine 102 @						
<input type="checkbox"/> Captain		HMA539	✓	22:30	14.5	
<input type="checkbox"/> Engineer		HMA539	✓	22:45	14.75	
<input type="checkbox"/> Firefighter PM		HMA539	✓	22:15	14.25	
<input type="checkbox"/> Firefighter PM		HMA539	✓	22:30	14.5	
<input checked="" type="checkbox"/> Station 3						
<input checked="" type="checkbox"/> Medic Engine 3 (The						
<input type="checkbox"/> Captain		ROUT539	✓	19:00	11	
<input type="checkbox"/>		RG580	✓	19:00	13	
<input type="checkbox"/> Engineer		ROUT539	✓	19:00	11	
<input type="checkbox"/>		RG580	✓	19:00	13	
<input type="checkbox"/> Firefighter PM		ROUT539	✓	19:00	11	
<input type="checkbox"/>		RG580	✓	19:00	13	
<input checked="" type="checkbox"/> Station 4						
<input checked="" type="checkbox"/> Medic Engine 4 (The						
<input type="checkbox"/> Captain		ROUT539	✓	11:00	3	
<input type="checkbox"/>		SA108	✓	11:00	21	
<input type="checkbox"/>		HMA539	✓	11:00	22:30	11.5
<input type="checkbox"/>		SA580		22:30	9.5	



<input type="checkbox"/> Engineer	ROUT539		✓	22:30	14.5
<input type="checkbox"/>	RG580		✓	22:30	9.5
<input type="checkbox"/> Firefighter PM	FMMA33		✓	22:30	14.5
<input type="checkbox"/>	FMG580		✓	22:30	9.5
<input checked="" type="checkbox"/> Medic Engine 103 @ St					
<input type="checkbox"/> Captain	FMG530		✓	23:00	15
<input type="checkbox"/> Engineer	FMG530		✓	23:00	15
<input type="checkbox"/> Firefighter PM	FMG530		✓	23:00	15
<input checked="" type="checkbox"/> Water Tender 4 (Thom					
<input type="checkbox"/> Captain	FMMA33		✓	09:00 11:00	2
<input type="checkbox"/> Engineer	FMMA33		✓	09:00	23
<input type="checkbox"/>	FMMA33		✓	10:15	21.75
<input checked="" type="checkbox"/> Station 5					
<input checked="" type="checkbox"/> Medic Engine 5 (Thom					
<input type="checkbox"/> Captain	FS199		✓		
<input type="checkbox"/>	FMMA33		✓	19:00	11
<input type="checkbox"/>	FSO5L660		✓	19:00	13
<input type="checkbox"/> Engineer	ROUT539		✓	19:00	11
<input type="checkbox"/>	RG580		✓	19:00	13
<input type="checkbox"/> Firefighter PM	FMMA33		✓	19:00	11
<input type="checkbox"/>	SA103		✓	19:00	13
<input type="checkbox"/>	FTG580		✓	19:00 22:30	3.5
<input type="checkbox"/>	FTG580		✓	22:30	9.5
<input checked="" type="checkbox"/> Medic Truck 5 (Thom					
<input type="checkbox"/> Captain	ROUT539		✓	19:00	11
<input type="checkbox"/>	RG580		✓	19:00	13
<input type="checkbox"/> Engineer	ROUT539		✓	19:00	11
<input type="checkbox"/>	RG580		✓	19:00	13
<input type="checkbox"/> Firefighter PM	ROUT539		✓	19:00	11
<input type="checkbox"/>	RG580		✓	19:00	13
<input type="checkbox"/> Firefighter PM	ROUT539		✓	19:00	11
<input type="checkbox"/>	RG580		✓	19:00	13
<input checked="" type="checkbox"/> Medic Truck 105 (Thomas					
<input type="checkbox"/> Captain TC	FSO5L660		✓	19:00	11
<input type="checkbox"/> Engineer TE	FMG580			19:00	11

<input type="checkbox"/> Firefighter PM TF			11:00	3
<input type="checkbox"/> Firefighter PM			19:00	11
<input type="checkbox"/>			19:00	11
 Station 6				
 Medic Engine 6 (Thomas				
<input type="checkbox"/> Captain HM			22:30	14.5
<input type="checkbox"/>			22:30	9.5
<input type="checkbox"/> Engineer HM			22:30	14.5
<input type="checkbox"/>			22:30	9.5
<input type="checkbox"/> Firefighter PM			11:00	3
<input type="checkbox"/>			09:00	1
<input type="checkbox"/>			11:00	21
<input type="checkbox"/>			11:00	21
 Medic Engine 106 @ St.				
<input type="checkbox"/> Captain				
<input type="checkbox"/> Engineer				
<input type="checkbox"/> Firefighter PM				
 Off Roster				
 Off Roster Shift				
 Off Roster				
 (off roster)				
<input type="checkbox"/> (.Firefighter PM)			11:00	3
12/14/2017 14:56:05  08:00 08:00 0				

☒ Wednesday, December 06, 2017

☒ Ventura City Fire Department

☒ Administration

☒ Administrative

☒ Administrative Offices

☒ Fire Chief

☐ Fire Chief

☒ Assistant Fire Chief

☐ Assistant Fire Chief

☐
☒ Training Chief

☐ Battalion Chief

☒ EMS Coordinator

☐ EMS Coordinator

☐
☒ Administrative Staff

☐ Fire Chief Secretary

☐
☐
☒ Assistant Fire Chief  
Secretary

☐
☐ Budget Analyst

☐ Payroll Specialist

☐ Fire Cadet

☐
☐ Captain

☐ Firefighter PM

☐ Engineer

☒ Fire Prevention

☒ Custom Schedule

☒ Fire Prevention Office

☒ Inspector

☐ FP Inspector

☐
☒ Administrative

☒ Fire Prevention Office

☒ Inspector

☐ FP Inspector

☐
☐

12/15/2017 17:42:24 08:00 17:00 9

FC101



AF101



FC180



17:00 08:00 15

ATC101



AEMS101




17:00 21:30 4.5

FC102




17:00 20:00 3

AF102




17:00 20:00 3

FC101



APD101



FCR180



07:00 17:45 10.75

FCR180



07:30 18:00 10.5

RG580



FMV199



20:36 12.6

DS199



20:36 12.6

12/15/2017 16:41:47 00:00 00:00 24

FCR180



06:45 15:45 9

OTC180



15:45 20:45 5

12/18/2017 08:13:27 08:00 17:00 9

E0101



05:30 07:00 1.5

FPR579



E0101








17:00 20:00 3



☒ Fire Marshal  
☐ Fire Marshal  
☐  
☐  
☒ Fire Prevention Supervisor  
☐ FP Supervisor  
☐  
☒ Specialist  
☐ FP Specialist  
☐  
☐ FP Specialist  
☒ Technician  
☐ FP Technician  
☐  
☐  
☒ Secretary  
☐ FP Secretary  
☐  
☒ Battalion 10  
☒ B Shift  
☒ BC Quarters  
☒ Command B10  
☐ Battalion Chief  
☐  
☒ Command B10C  
☐ (Battalion Chief)  
☒ Station 1  
☒ Medic Engine 1  
☐ Captain  
☐  
☐ Firefighter PM  
☐ Engineer  
☐  
☐  
☒ Medic Engine 106 @  
☐ Captain  
☐ Engineer  
☐ Firefighter PM  
☒ Station 2  
☒ Medic Engine 2

Image	Image	Time	Time	Count
		✓	00:00 08:00	8
		✓		
		✓	17:00 00:00	7
		✓	06:45 15:45	
		✓	15:45 20:45	5
		✓		
		✓	17:00 19:00	2
		✓		
		✓	05:30 07:00	1.5
		✓		
		✓	17:00 20:00	3
		✓	10:00	2
		✓	10:00	7
12/15/2017 12:11:44			08:00 08:00	24
		✓		
		✓		
		✓	08:30 19:00	10.5
		✓		
		✓		
		✓		
		✓	20:00	12
		✓	20:00	12
		✓	20:00	12
		✓		
		✓		
		✓		

<input type="checkbox"/> Captain	RG580	✓		
<input type="checkbox"/> Engineer		✓		
<input type="checkbox"/> Firefighter PM	RG580	✓		
<input checked="" type="checkbox"/> Station 3				
<input checked="" type="checkbox"/> Medic Engine 3				
<input type="checkbox"/> Captain		✓		
<input type="checkbox"/> Engineer	RG580	✓	23:00	15
<input type="checkbox"/>	+XV199	✓	23:00	9
<input type="checkbox"/>		✓	23:00	9
<input type="checkbox"/> Firefighter PM	RG580	✓		
<input checked="" type="checkbox"/> Station 4				
<input checked="" type="checkbox"/> Medic Engine 4				
<input type="checkbox"/> Captain	RG580	✓		
<input type="checkbox"/> Engineer	RG580	✓		
<input type="checkbox"/> Firefighter PM	+SH199	✓		
<input type="checkbox"/>		✓		
<input checked="" type="checkbox"/> Water Tender 4				
<input type="checkbox"/> Captain	⚠ MMA639	✓	11:30	20.5
<input type="checkbox"/> Engineer	MMA639	✓	11:30	20.5
<input checked="" type="checkbox"/> Station 5				
<input checked="" type="checkbox"/> Medic Engine 5				
<input type="checkbox"/> Captain	RG580	✓		
<input type="checkbox"/> Engineer	MM510580	✓		
<input type="checkbox"/> Firefighter PM	TC580	✓		
<input checked="" type="checkbox"/> Medic Truck 5				
<input type="checkbox"/> Captain	RG580	✓		
<input type="checkbox"/> Engineer	FS199	✓		
<input type="checkbox"/>	RG580	✓		
<input type="checkbox"/> Firefighter PM	RG580	✓		
<input type="checkbox"/> Firefighter PM	SA103	✓		
<input type="checkbox"/>	RG580	✓		
<input checked="" type="checkbox"/> Station 6				
<input checked="" type="checkbox"/> Medic Engine 6				
<input type="checkbox"/> Captain HM	RG580	✓		
<input type="checkbox"/> Engineer HM	RG580		11:00	3

<input type="checkbox"/>		✓	11:00	21
<input type="checkbox"/>		✓	11:00	21
<input type="checkbox"/> Firefighter PM		✓		
<input type="checkbox"/> Off Roster				
<input type="checkbox"/> Off Roster Shift	12/15/2017 12:11:44	✗	08:00 08:00	0
<input type="checkbox"/> Off Roster				
<input type="checkbox"/> {off roster}				
<input type="checkbox"/> {.Firefighter PM}		✓	17:00	9
<input type="checkbox"/> {.Engineer}		✓	20:00 08:00	12
<input type="checkbox"/> {.Battalion Chief}		✓	17:00 08:00	15 

Thursday, December 07, 2017

Ventura City Fire Department

Administration

Administrative

Administrative Offices

Fire Chief

☐ Fire Chief

Assistant Fire Chief

☐ Assistant Fire Chief

☐

Training Chief

☐ Battalion Chief

EMS Coordinator

☐ EMS Coordinator

☐

Administrative Staff

☐ Fire Chief Secretary

☐

☐

Assistant Fire Chief  
Secretary

☐

☐ Budget Analyst

☐ Payroll Specialist

☐ Fire Cadet

☐

☐ Captain

☐ Firefighter PM

☐ Engineer

Fire Prevention

Custom Schedule

Fire Prevention Offices

Inspector

☐ FP Inspector

☐

Administrative

Fire Prevention Offices

Inspector

☐ FP Inspector

☐

Fire Marshal

12/15/2017 17:42:34 08:00 17:00 9

FC101

✓

AF101

✓

FC058

✓

17:00 08:00 15

ATC101

✓

AEMS101

✓

✓ 17:00 21:00 4

FC102

✓

FC102

✓

AF102

✓

17:00 20:00 3

FC101

✓

FC101

✓

APD101

✓

FCR180

✓

14:30 6.5

FCR180

✓

14:00 6

RG580

✓

FMV199

✓

20:36 12.6

DS199

✓

20:36 12.6

12/15/2017 16:41:26 00:00 00:00 24

FCR180

✓

06:45 09:45 3

FCR180

✓

09:45 16:45 7

12/18/2017 08:12:06 08:00 17:00 9





















































FPR579

✓

FC0101

✓

17:00 20:00 3

Fire Marshal			00:00 08:00	8
<input type="checkbox"/>				
<input type="checkbox"/>			17:00 00:00	7
<input checked="" type="checkbox"/> Fire Prevention Superv				
<input type="checkbox"/> FP Supervisor			06:45 15:45	
<input type="checkbox"/>			15:45 16:45	1
<input checked="" type="checkbox"/> Specialist				
<input type="checkbox"/> FP Specialist			03:00 06:00	3
<input type="checkbox"/>				
<input type="checkbox"/> FP Specialist				
<input type="checkbox"/>			17:00 19:00	2
<input checked="" type="checkbox"/> Technician				
<input type="checkbox"/> FP Technician				
<input type="checkbox"/>			17:00 20:00	3
<input checked="" type="checkbox"/> Secretary				
<input type="checkbox"/> FP Secretary			10:00	2
<input type="checkbox"/>			10:00	7
<input checked="" type="checkbox"/> Battalion 10				
<input checked="" type="checkbox"/> B Shift				
<input checked="" type="checkbox"/> BC Quarters				
<input checked="" type="checkbox"/> Command B10				
<input type="checkbox"/> Battalion Chief				
<input type="checkbox"/>				
<input checked="" type="checkbox"/> Command B100				
<input type="checkbox"/> (Battalion Chief)			18:00	10
<input type="checkbox"/>			07:30	0.5
<input checked="" type="checkbox"/> Station 1				
<input checked="" type="checkbox"/> Medic Engine 1				
<input type="checkbox"/> Captain				
<input type="checkbox"/>				
<input type="checkbox"/> Engineer			20:00	12
<input type="checkbox"/>			20:00	12
<input type="checkbox"/>			20:00	12
<input type="checkbox"/> Firefighter PM				
<input checked="" type="checkbox"/> Medic Engine 101 @ :				
<input type="checkbox"/> Captain			10:30	21.5
<input type="checkbox"/> Engineer				
<input type="checkbox"/> Firefighter PM				
<input checked="" type="checkbox"/> Medic Engine 106 @ :				
<input type="checkbox"/>				

12/15/2017 12:12:15  08:00 08:00 24

Captain	ROUT530		✓		
<input type="checkbox"/> Engineer			✓		
<input type="checkbox"/> Firefighter PM			✓		
<input checked="" type="checkbox"/> Station 2					
<input checked="" type="checkbox"/> Medic Engine 2					
<input type="checkbox"/> Captain	RG580		✓		
<input type="checkbox"/> Engineer			✓		
<input type="checkbox"/> Firefighter PM	OR580		✓		
<input type="checkbox"/>	WA		✓		
<input checked="" type="checkbox"/> Medic Engine 102 @					
<input type="checkbox"/> Captain			✓		
<input type="checkbox"/> Engineer			✓		
<input type="checkbox"/> Firefighter PM			✓		
<input checked="" type="checkbox"/> Station 3					
<input checked="" type="checkbox"/> Medic Engine 3					
<input type="checkbox"/> Captain			✓		
<input type="checkbox"/> Engineer	RG580		✓		
<input type="checkbox"/> Firefighter PM	RG580		✓		
<input checked="" type="checkbox"/> Station 4					
<input checked="" type="checkbox"/> Medic Engine 4					
<input type="checkbox"/> Captain	RG580		✓		
<input type="checkbox"/> Engineer	RG580		✓		
<input type="checkbox"/> Firefighter PM	ISH199		✓		
<input type="checkbox"/>	SCVH561		✓		
<input checked="" type="checkbox"/> Water Tender 4					
<input type="checkbox"/> Captain		MA539	✓		
<input type="checkbox"/> Engineer	MA539		✓		
<input checked="" type="checkbox"/> Station 5					
<input checked="" type="checkbox"/> Medic Engine 5					
<input type="checkbox"/> Captain	RG580		✓		
<input type="checkbox"/> Engineer	SCVH561		✓	08:30	0.5
<input type="checkbox"/>	SCVH561		✓	08:30	23.5
<input type="checkbox"/> Firefighter PM	RG580		✓		
<input type="checkbox"/> Firefighter PM	EO580		✓	17:00	15
<input checked="" type="checkbox"/> Medic Truck 5					
<input type="checkbox"/> Captain	RG580				



<input type="checkbox"/> Engineer	RG580	✓	08:30	0.5
<input type="checkbox"/>	+XV199	✓	08:30	23.5
<input type="checkbox"/>	+SCV1551	✓	08:30	23.5
<input type="checkbox"/>	+SV199	✓		
<input type="checkbox"/> Firefighter PM	RG580	✓		
<input type="checkbox"/> Firefighter PM	SA103	✓	17:00	9
<input type="checkbox"/>	+SC580	✓		
<input type="checkbox"/>	+SH199	✓	17:00	15
[-] Station 6				
[-] Medic Engine 6				
<input type="checkbox"/> Captain HM	QR580	✓		
<input type="checkbox"/>	WR	✓		
<input type="checkbox"/> Engineer HM	FS199	✓		
<input type="checkbox"/>	+SC51550	✓		
<input type="checkbox"/>	HQ453	✓	09:00	1
<input type="checkbox"/> Firefighter PM	RG580	✓		
<input type="checkbox"/> {.Engineer}	+EQ580	✓	08:15	0.25
[-] Off Roster				
[-] Off Roster Shift				
[-] Off Roster				
[-] {off roster}				
<input type="checkbox"/> {.Captain}	+SA103	✓	11:00	3
<input type="checkbox"/> {.Firefighter PM}	+TO103	✓	17:00	9
<input type="checkbox"/> {.Engineer}	+TO103	✓	11:00	3
<input type="checkbox"/> {.Battalion Chief}	+MEO580	✓	17:00 08:00	15
12/09/2017 07:19:13 08:00 08:00 0				

# EXHIBIT G



SHUTE MIHALY  
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102  
T: (415) 552-7272 F: (415) 552-5816  
www.smwlaw.com

SARA A. CLARK  
Attorney  
Clark@smwlaw.com

May 17, 2019

**Via E-Mail and U.S. Mail**

Andy Vets  
Senior Assistant City Attorney  
501 Poli Street, Room 213  
Ventura, CA 93001

Re: Public Records Act (S. Bennett - March 25, 2019)

Dear Mr. Vets:

I write in response to your letter dated May 9, 2019, regarding my client's March 25, 2019 Public Records Act request. In that letter, you state that the City anticipates completing the process of reviewing the arguments in my April 17th letter and re-evaluating the records and exemption "in the next couple of weeks." This response does not comply with the California Public Records Act and is unacceptable to my client.

Under Government Code section 6253(c), the City was required to respond to the initial request within 10 days. While Mr. Bennett received a responsive letter within that time, the City cited exemptions that were facially inapplicable to the requested records. On his behalf, I responded to the City within two weeks demanding the requested documents.

Your office has already taken three additional weeks to review my April 17th letter. You now request an unspecified number of additional weeks. I understand from my client that such delay is part of a repeated practice by the City to avoid responding to requests for factual information regarding the Thomas Fire. Such efforts do not comply with the PRA, which states that "[n]othing in [the law] shall be construed to permit an agency to delay or obstruct the inspection or copying of public records." Gov. Code § 6253(d).

**I request a complete response to my April 17th letter by Wednesday, May 29, 2019.** This request provides the City with a total of six week to respond to a straight-

Andy Vets  
May 17, 2019  
Page 2

forward request for factual documents. If we do not receive a complete response by this time, we will evaluate our legal options.

Please let me know if you have any questions.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Sara A. Clark

cc: Stephen Bennett (via email only: [stephenbennett@charter.net](mailto:stephenbennett@charter.net))

1120159.1

# EXHIBIT H

June 18, 2019

**BY EMAIL**

Email: Clark@smwlaw.com

Sara A. Clark  
Shute Mihaly & Weinberger, LLP  
396 Hayes Street  
San Francisco, CA 94102

**Re: Public Records Act Request – March 25, 2019 (Steve Bennett)**

Dear Ms. Clark:

This office represents the City of San Buenaventura ("City"). I am writing to follow up on the City's May 9, 2019 letter to you regarding your client's Public Records Act ("PRA") request dated March 25, 2019. Please be advised that with respect to request Nos. 1-6, the City re-asserts the exemptions asserted in the City's April 4, 2019 letter to your client.

Specifically, with respect to request Nos. 1, 2, 3 and 6 and requests Nos. 4 and 5 (documents between December 4-10, 2017 only), the records sought are exempt from disclosure pursuant to: (1) Government Code § 6254(b) [records pertaining to pending litigation to which a public agency is a party or to claims made under the California Government Claims Act], (2) Government Code § 6254(k) [attorney-client, attorney work-product prepared for use in pending litigation or claims] and (3) Government Code § 6255(a) [the public interest served by not disclosing these records clearly outweighs the public interest served by disclosing them because the city is subject to pending and potential litigation as a defendant and as a plaintiff related to the Thomas Fire.] Accordingly, the City will not be producing any records in response to the foregoing requests.

Additionally, it is my understanding that your client has requested that the City pay a portion of his attorneys' fees in connection with this matter. The City declines your client's request.

Very truly yours,



Edward B. Kang

cc by email: Andy H. Viets, Senior Assistant City Attorney  
Jonathan Fiske  
Thomas M. Madruga